

25 March 2010



**Accountants, Business
& Financial Advisors**

Unit 2, 3a Racecourse Rd
Gosford NSW 2250
PO Box 1387
Gosford NSW 2250

Telephone 02 4324 9177
Facsimile 02 4324 9055
Email info@mpcc.com.au

ABN 31 882 937 630

NEWSFLASH

UPDATE ON SUPERANNUATION FOR EMPLOYEES RELATING TO 2010 PAYG WITHHOLDING STATEMENTS

Dear Client

New reporting rules apply for employer superannuation contributions from 1 July 2009

From 1 July 2009, as part of the Government's recent income test reforms, certain employer superannuation contributions may now need to be reported on an employee's payment summary, and taken into account for the purposes of means-testing whether an employee is entitled to claim/is liable for a range of tax and non-tax concessions/obligations.

Specifically, from 1 July 2009, an employer that makes Reportable Employer Superannuation Contributions (RESCs) on behalf of an employee for an income year will be required to report these amounts on the employee's payment summary for the income year.

The amount reported for an employee (ie the employee's RESCs) must then be included in the income tests when determining whether the employee is entitled to claim certain tax and non-tax concessions, or is liable for certain tax and non-tax obligations, such as the following:

- Senior Australians Tax Offset (SATO)
- Dependant tax offsets (e.g. dependant spouse tax offset)
- Deductions for personal superannuation contributions
- Superannuation co-contribution concession and
- Centrelink and Child Support benefits and obligations (eg Child Care Benefit, Family Tax Benefit, Austudy and Newstart Allowance)

What are reportable employer superannuation contributions?

An individual's Reportable Employer Superannuation Contributions (RESCs) for an income year is defined as follows:

- (a) An amount contributed to a superannuation fund on behalf of an individual during an income year by their employer or an associate of their employer; and
- (b) The individual has, or has had, or might reasonably be expected to have or have had, the capacity to influence either:
 - The size of the contribution; or

- The way the amount is contributed so that their assessable income is reduced.

In effect, based on the above definition, common examples of RESCs include the following:

- (a) Salary sacrificed contributions** – these are basically employer contributions made under an effective salary sacrifice arrangement in excess of the prescribed amount an employer is effectively required to contribute for an employee under the Superannuation Guarantee (SG) legislation (ie currently 9% of quarterly ordinary time earnings up to \$40,170)
- (b) Contributions under an employment contract or agreement** – these are basically employer contributions in excess of the 9% SG contribution amount, which are made under the terms of a common law employment contract or as a result of some agreement between an employee and their employer for increased superannuation contributions to be made on behalf of the employee as part of a remuneration package.

New record keeping practices in relation to RESCs

From 1 July 2009, employers making superannuation contributions for employees (particularly contributions which exceed the 9% SG amount) should now keep sufficient records or information which verifies whether there are any RESCs made for the year, such as the following:

- Records showing how an employer calculated each employee's salary or OTE
- Information on whether an employee influenced any superannuation contributions made by an employer (particularly contributions in excess of the 9% SG amount) – if so, information on how an employer calculated the 'employee-influenced' portion of total contributions
- Information on how an employer calculated any RESCs for a particular employee and
- Copies of any relevant salary sacrifice agreements.

New payment summary reporting obligations for RESCs

An employer who makes RESCs on behalf of an employee for an income year (from 1 July 2009) will need to disclose the total amount on the employee's payment summary for the year (at a new label for RESCs).

Furthermore an employer in these circumstances will be required to provide details of RESCs made on behalf of employees for an income year as part of the annual withholding report provided to the ATO, no later than 14 August after the end of the income year to which the report relates.

How are employees affected by RESCs?

Although an employee's RESCs are not included in the employee's gross/assessable income, they must be included in the income tests for the following tax-related concessions/obligations:

- Medicare levy surcharge;
- Dependant tax offsets (eg dependant spouse tax offset);
- Senior Australians tax offset and the Pensioner tax offset;
- Mature age worker tax offset;
- Spouse superannuation contributions tax offset;
- Superannuation co-contributions concession;
- Deductions for personal superannuation contributions and

- Higher Education Loan Program (HELP) and Student Financial Supplement Scheme (SFSS) repayments.

An employee's RESCS may also affect a range of Centrelink and Child Support benefits and obligations (eg Baby Bonus, Child Care Benefit, Family Tax Benefit and Austudy).

Precedent letter for employees who have an amount of RESCs reported on their payment summary for an income year.

The following suggested precedent letter can be used by an employer to advise an employee of RESCs to be recorded on the employee's payment summary under the new reporting rules from 1 July 2009. The letter should accompany the employee's payment summary. This will assist your staff in understanding their PAYG summary and impact of any amounts disclosed as a RESC.

If you would like a copy of this in word format please do not hesitate to contact Terri Golding on 4372 8003 or Terriq@mpcc.com.au.

Assistance with Record Keeping

If you would like any assistance in reviewing your current payroll records to ensure your system is providing the correct information and annual PAYG Withholding Statements please do not hesitate to contact us.

Regards

Peter McIntyre & Amanda Nielsen

Partners